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DERGOSITS & NOAH LLP  
FOUR EMBARCADERO CENTER, SUITE 1450  
SAN FRANCISCO CA 94111

In re Application of	:	
ONEA et al.	:	
Serial No.: 10/584,703	:	DECISION ON
PCT App. No.: PCT/AU04/01815	:	
Int'l Filing Date: 21 December 2004	:	PETITION UNDER
Priority Date: 24 December 2003	:	
Attorney Docket No.: 411.20	:	37 CFR 1.181
For: VEHICLE SPEED DETERMINATION	:	
SYSTEM AND METHOD	:	

This is a decision on applicant's "Petition to Withdraw the Holding of Abandonment", filed on 11 July 2008 in the US Patent and Trademark Office, treated as a petition under 37 CFR 1.181. No petition fee is required.

### **BACKGROUND**

On 22 June 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 23 March 2007, the Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that oath or declaration, in compliance with 37 CFR 497(a) and (b) and executed by the inventors and the surcharge for filing the oath or declaration after the thirty month period, was required. The notification set a TWO (2) MONTH period for response.

On 03 July 2008, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating, that the application went abandoned for failure to respond to the Notification of Missing Requirements mailed 23 March 2007.

On 11 July 2008, applicant filed the present petition requesting that the Office withdraw the holding of abandonment because applicant timely replied to the Notification of Missing Requirements on 03 May 2007. The petition was accompanied by copies of the cover letter and the declaration alleged to have been transmitted by first class mail to the USPTO on 03 May 2007.

### **DISCUSSION**

The 03 May 2007 submission is not located in the application file. It is noted that the USPTO itemized post card receipt accompanied the petition. The post card is directed to U.S. application 10/384,703, not 10/584,703. Application file 10/384,703 was reviewed and does not

contain the declaration for the application at issue.

As stated in section 503 of the Manual of Patent Examining Procedure (MPEP):

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which a receipt is requested. For example, the postcard **should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of invention, etc.**

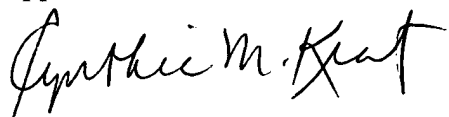
(Emphasis added.)

Here, the postcard receipt is not prima facie evidence that the declaration, in response to the Notification of Missing Requirements, was submitted on 03 May 2007 because the postcard receipt identifies a different U.S. serial number than the application at issue. Thus, it does not serve as proof that the declaration was submitted on 03 May 2007. The petition to withdraw the holding of abandonment is dismissed.

### CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment is **DISMISSED without prejudice**.

The Notification of Abandonment mailed on 03 July 2008 remains in effect. The application remains ABANDONED.



Cynthia M. Kratz  
Attorney Advisor  
Office of PCT Legal Administration

Telephone: 571-272-3286  
Facsimile: 571-273-0459